REMARKS

At the time of the Seventh Office Action dated April 22, 2010, claims 15-18 were pending and rejected in this application. Claims 19-29 have been added, and Applicants respectfully submit that the present Amendment does not generate any new matter issue.

On page 2 of the Seventh Office Action, the Examiner objected to an informality within claim 15. By the present Amendment, Applicants have amended claim 15 to address this informality, as suggested by the Examiner.

CLAIMS 15-18 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON YOAKUM ET AL., U.S. PATENT NO. 6,421,674 (HEREINAFTER YOAKUM), IN VIEW OF APPLICANTS' ADMITTED PRIOR ART (HEREINAFTER THE ADMITTED PRIOR ART)

On pages 2-6 of the Seventh Office Action, the Examiner concluded that one having ordinary skill in the art would have considered the claimed invention to be obvious in view of Yoakum and the Admitted Prior Art. This rejection is respectfully traversed.

Yoakum

Each of independent claims 15, 19, and 23 recite limitations comparable to "a database accessible by the first application server and the second application server." Thus, as claimed, the same database is accessible by the first application server and the second application server. Referring to the first full paragraph page 15 of the Seventh Office Action, the Examiner alleges that Yoakum teaches these limitations. Applicants respectfully disagree.

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2   In this regard, reference is made to column 4, lines 32-35 of Yoakum, which teaches that

3 "However, proxy server 208 might not have the requested information is its local database. In

4 this case, results from the first database lookup can include the location of a second database

5 where the desired information is located." Thus, Yoakum refers to two <u>separate</u> databases,

6 which is not consistent with the language of the claims.

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8   <u>Admitted Prior Art – the Examiner's analysis in the Seventh Office Action</u>

9   Referring to the third and fourth paragraphs on page 4 of the Seventh Office Action, the

10 Examiner asserted the following:

11   Yoakum fails to teach the limitation further including detecting by the first application
12   server that a database is not accessible and **the first and second server performing various**
13   **actions while the database is not accessible**. (bold added)
14   However, AAPA teaches the use of, <u>in prior art computer systems</u>, an application server
15   informing the application client about the loss of a connection to a database, which must be
16   happen after the application server detects the loss of the connection and processing a request of a
17   client while the database is not able to be accessed by the first server (page 1, paragraph 2).
18   (emphasis in original)
19

20 Notable in its absence is the Examiner's failure to properly characterize the differences between

21 Yoakum and the claimed limitations at issue. By merely asserting that Yoakum fails to teach

22 that "the first and second server performing various actions while the database is not accessible,"

23 the Examiner has understated the differences between Yoakum and the claimed limitations at

24 issue. Notably, while the Admitted Prior Art allegedly teaches that certain actions are performed

25 by the first and second server while the database is not accessible, what is allegedly taught by the

26 Admitted Prior Art fails to teach <u>all</u> of the limitations that are not taught by Yoakum.

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1   Obviousness analysis

2   Referring to the last full paragraph on page 4 of the Seventh Office Action, the Examiner

3   presented the following obviousness analysis:

4   It would have been obvious to one of ordinary skill in the art at the time of the invention
5   to modify Yoakum in view of AAPA to detect, by the first application server, that a database is
6   not accessible and the first and second servers performing various actions while the database is not
7   accessible. One would be motivated to do so because it would be more efficient for a server to
8   detect that a database is not accessible by it than to use a separate means for that function.
9
10   At the outset, Applicants note that the Examiner has not even alleged that the combination of

11   Yoakum and the Admitted Prior Art teach all of the limitations that the Examiner has admitted

12   that Yoakum fails to teach (i.e., "the first and second server performing various actions while the

13   database is not accessible"). Thus, the Examiner has not even established a prima facie case of

14   obviousness.

15

16   The Examiner's analysis also ignores the teachings of Yoakum and the Admitted Prior

17   Art are incompatible in the sense that such a combination would not arrive at the claimed

18   invention. For example, the claimed invention contemplates an instance in which the first

19   application server cannot access the database. However, for the system of Yoakum to work, the

20   alleged first application server must be able to access its local data so as to find "the location of a

21   second database where the desired information is located." (see column 4, lines 34-36 of

22   Yoakum). Thus, if the alleged first application server of Yoakum cannot access the local

23   database, then the alleged first application server of Yoakum cannot know the location of the

24   second database. Thus, the Examiner's proposed combination would not arrive at the claimed

25   invention.

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1   For the above-described reasons, the Examiner has failed to establish that the claimed

2   invention, as recited in claims 15-18, would have been obvious within the meaning of 35 U.S.C. §

3   103. Applicants, therefore, respectfully solicit withdrawal of the imposed rejection of claims 15-18

4   under 35 U.S.C. § 103 for obviousness based upon Yoakum and the Admitted Prior Art.

Applicants have made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. However, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

> When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: July 21, 2010   Respectfully submitted,

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